

# THE COUNTY BULLETIN

## And Uniform Compliance Guidelines

### ISSUED BY STATE BOARD OF ACCOUNTS

Vol. No. 343

October 2003

#### **REMINDER OF ORDER OF BUSINESS**

#### **October**

- 1 Last date for County Board of Tax Adjustment [except Marion County and in a county containing a second class city (November 1)] to complete its duties. (IC 6-1.1-17-9(a))
- 13 Columbus Day - Legal Holiday (IC 1-1-9-1)
- 15 Last day to make pension report and payment for third quarter by counties participating in Public Employee's Retirement Fund.
- 20 Last day to report and make payment of State Income Tax withheld in September to Indiana Department of Revenue.
- 31 Last day to file quarterly unemployment compensation report with the Indiana Employment Security Division.

Last day to report and make payment of balance of Federal Income Tax withheld in the third quarter to Internal Revenue Service.

Last day Annual Tax Sale can be held. [IC 6-1.1-24-2(a)(8)]

#### **November**

- 1 Issue tax sale certificates to County for properties offered in tax sale for two consecutive years and unsold at the 2003 Tax Sale. (IC 6-1.1-24-6)
- Last date for County Board of Tax Adjustment in Marion County and in a county containing a second class city to complete its duties. (IC 6-1.1-17-9(a))
- Last day for county auditor to certify to the division of state court administration the amount, if any, the county will be providing to the judge's salary during the ensuing calendar year. (IC 33-13-12-7.1(b))

- 4 Election Day – Legal Holiday (IC 1-1-9-1)
- 10 Last day for paying second installment of taxes without penalty. Start preparing for settlement of second installment tax collections. (IC 6-1.1-37-10)
- 11 Veterans' Day - Legal Holiday. (IC 1-1-9-1)

19, 20, & 21 County Auditor's Fall Conference - Indianapolis, Indiana

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**REMINDER OF ORDER OF BUSINESS**  
**(Continued)**

**November**

- 20 Last day to report and make payment of State Income Tax withheld in October to Indiana Department of Revenue.
- 27 Thanksgiving Day - Legal Holiday. (IC 1-1-9-1)

**December**

- 1 On or before this date, certify names and addresses of persons who have money due to them for salaries, wages or other reasons to County Treasurer, for determining if such persons owe delinquent taxes. (IC 6-1.1-22-14)  
  
At regular meeting of Board of County Commissioners consideration may be given to appointments of certain personnel and to bids and awards for highway supplies, materials and equipment for 2004.
- 20 Last day to report and make payment of State Income Tax withheld in November to Indiana Department of Revenue.
- 25 MERRY CHRISTMAS!! Legal Holiday. (IC 1-1-9-1)
- 31 Review year-end duties.  
  
Post and close all records completely and promptly.  
  
The Auditor should balance with the Treasurer and verify the amount of cash in the Treasurer's office, if field examiners or a successor Treasurer are not available to verify the cash count.

Cash Change Funds issued to any county officer whose term expires must be returned to the County General Fund.

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**COMMISSIONS ON VENDING MACHINES**

The following is our audit position concerning vending machine placement, use, maintenance, and commissions.

IC 36-2-7-2 states:

“Except as otherwise provided by section 6, 9, and 13 of this chapter, the compensation fixed for county officers and employees under this title is in full for all governmental services and in lieu of all:

- (1) fees;
- (2) per diems;
- (3) penalties;
- (4) costs;
- (5) interest;
- (6) forfeitures;
- (7) percentages;
- (8) commissions;
- (9) allowances;
- (10) mileage; and
- (11) other remuneration;

which shall be paid into the county general fund.

1. There should be a clearly defined procedure adopted by the governing body of the unit concerning placement, maintenance, and commissions of vending machines on their property.
2. All revenues generated and costs incurred in operating vending machines located on the unit's premises should be accounted for through the unit's records.
3. If vending machines are located in restricted areas (areas other than those available to the public) and if the unit's governing body wishes for those revenues to be restricted for the use and benefit of those employees who use the machines and generate the revenues, the State Board of Accounts takes no exception to such action in an audit. This decision must be authorized by ordinance (or resolution) of the proper legislative body of the unit.
4. If vending machines are located in areas where the public makes use of the machines and generates the resulting revenues, we instruct officials to place the revenues in the unit's general fund for the benefit of the general public, the machine users. Any alternative procedure(s) would be reviewed and evaluated on a case by case basis during our audits. As stated in No. 3 any alternative procedure should be authorized by ordinance (or resolution) of the proper body.
5. In the event personnel other than the unit's personnel maintain, stock, and clean up around the vending machines, we would take no audit exception when such persons are paid for these services. In this situation, a written agreement should be entered into listing the services rendered, the amount to be paid for such services, timing of payments, and any other areas deemed necessary by the contracting parties or the governing body of the unit.

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**DELINQUENT PUBLIC UTILITY TAXES**

Pursuant to IC 6-1.1-8-38: Taxes which are based upon an assessment which is made under this chapter are a lien upon the property assessed. This lien accrues on the assessment date of the year of assessment. In addition, the taxes are a personal debt of the public utility company in whose name the property is assessed.

If public utility company does not pay the taxes when they are due, the county treasurer shall notify the prosecuting attorney of that fact. The prosecuting attorney shall then bring an action against the company to recover the delinquent taxes or to enforce the lien upon the property, or both. In such an action, the judgment shall include a penalty equal to fifty percent (50%) of the delinquent taxes. This subsection does not apply to taxes on a railroad car company's indefinite-situs distributable property.

**FORMS PRESCRIBED BY THE STATE BOARD OF ACCOUNTS**

As a result of advances in computer technology, some computer hardware, software and application systems can now produce exact replicas of the forms prescribed by the State Board of Accounts and documented in the Accounting Manuals which this Agency provides to governmental units. In addition, some of the prescribed forms are currently replicated on continuous, preformatted computer paper.

The State Board of Accounts prescribed the required accounting system forms, but does not specify the source from which the forms must be obtained. Therefore, the State Board of Accounts will not take exception to the use of forms which provide exact replications of the prescribed forms created by computer printer or utilizing continuous form computer paper. These exact replications must be identical to the prescribed forms in format, titles and locations of data. These exact replications of prescribed forms are not required to be submitted to the State Board of Accounts for approval and each form should be identified as **"PRESCRIBED BY THE STATE BOARD OF ACCOUNTS"** in the same location as it is printed on the most recent revision of the prescribed form.

The use of computer generated prescribed forms should be brought to the attention of the Field Examiners during the next regularly scheduled audit. The forms and the computer system generating the forms are subject to a technical computer audit based upon the results of the Field Examiners' risk assessment.

**LIQUOR PERMITS**

The State Board of Accounts is a post-audit agency and as such does not have the authority to render legal opinion. However, when necessary this department has found it necessary to develop a departmental position in regard to the audit of governmental entity. These audit positions have been developed by using references such as, the Indiana Code, Court Cases, and the Opinions of the Attorney General.

IC 7.1-3-21-15 requires that:

"The commission shall not issue, renew, or transfer a wholesaler, retailer, dealer, or other permit of any type if the applicant:

- (1) is seeking a renewal and the applicant has not paid all the property taxes under IC 6-1.1 that are due currently.
- (2) is seeking a transfer and the applicant has not paid all the property taxes under IC 6-1.1 for the assessment periods during which the transferror held the permit; or
- (3) is on the most recent tax warrant list supplied to the commission by the department of state revenue."

IC 6-1.1-22-9 states except for mobile homes (which are due in the year assessed)... "the property taxes assessed for a year under this article are due in two equal installments on May 10 and November 10 of the following year."

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**LIQUOR PERMITS (Continued)**

IC 6-1.1-1-2 defines assessment date as March 1 for all tangible property, except mobile homes which is January 15 for the current year. This would appear to mean that the assessment period for all tangible property (except mobile homes) would be March 1, 2002 through February 28, 2003 and would be payable in two equal installments on May 10 and November 10, 2003.

In the case of a transfer of an Alcoholic Beverage Commission permit requested in July 2003, it would appear that the applicant would need to have paid all property taxes due through November 10, 2004. We base this on the requirement that the applicant is to pay all property taxes under IC 6-1.1 for the assessment periods which the transferror held the permit. The applicant technically held the permit in July 2003, which falls in the assessment period of March 1, 2003 through February 28, 2004, with taxes due in two equal installments on May 10 and November 10, 2004. Technically it would appear that in order for the County Treasurer to certify on transfer, both the May and November 2004 would need to be paid.

In the case of a renewal of an Alcoholic Beverage Commission permit requested in July 2003, it would appear that the applicant would need to have paid all property taxes due through May 2003. We base this on the requirement that the applicant is to pay all the property taxes under IC 6-1.1 that are due currently. The property taxes assessed for a year under this article are due in two equal installments on May 10 and November 10 of the following year. It would appear that in order for the County Treasurer to certify to the renewal that only the May 10, 2003 property taxes would need to be paid.

This would appear reasonable, since IC 6-1.1-2-4 states that "The owner of any tangible property on the assessment date of a year is liable for the taxes imposed for that year on the property." This would appear reasonable since a permit for renewal would be the same owner, who would continue to be liable for the taxes imposed on March 1, 2003 payable on 2004. On the other hand, the transfer of a permit would indicate that the owner is changing and, since the taxes would be assessed to the owner of record, the owner would be liable for the taxes imposed on March 1, 2003 and payable in 2004. It would then appear that before transferring the permit to a new owner all taxes imposed on the previous owner should be paid.

This is not to be construed as a legal opinion, but merely represents the position this department would take in its audit of counties. The audit position of the State Board of Accounts does not preclude other individuals or entities from taking exception to the actions of a unit of government.

**NATIONAL FOREST DISTRIBUTIONS TO COUNTIES**

We have had inquiries as to the distributions received by counties from the U.S. Government for National Forests Situated within the county. Based on information provided to us by the U.S. Department of Agriculture there are two different types of payments you might receive.

- (1) "Twenty-five Per Cent Fund" of all monies received during any fiscal year from each national forest into which the lands acquired under this Act may from time to time be divided shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the State legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which national forest is situated..." (our emphasis) Based on use of the word "may", it would appear that the State would have discretionary power to distribute to either the public schools or the public roads or to both. Historically this department has taken the position that the public roads were to receive these funds.

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**NATIONAL FOREST DISTRIBUTIONS TO COUNTIES (Continued)**

- (2) "Payments In Lieu of Taxes" Effective for fiscal year beginning on or after October 1, 1976, the Secretary is authorized and directed to make payments on a fiscal basis to each unit of local government in which entitlement lands are located. The counties, under guidelines established by the Secretary, shall distribute the payments on a proportional basis to those units of government and affected school districts which have incurred losses of real property taxes due to the acquisition of lands or interest therein for addition to either such systems. Based on this it would appear all units of government (e.g. county, town, library, etc.) as well as the schools would be entitled to a prorata share of the Payment in Lieu of Taxes.

**IV-D INCENTIVE PAYMENTS**

**ACCOUNTING:**

Since a portion of IV-D incentive payments which are distributed to the county can be expended by the prosecuting attorney and the clerk of the circuit court without appropriation the following bookkeeping procedure is recommended.

1. Set up a "Ledger of Appropriations, Encumbrances, Disbursements and Balances" for each of the foregoing offices and title them "IV-D Expenditures Without Appropriations."
2. When a IV-D incentive payment is quietused to the County General Fund, post one-third of this amount to the "Appropriation Amount" column on the Ledger of Appropriations, Encumbrances, Disbursements, and Balances. This will prevent expenditures from exceeding one-third of the amounts received.
3. Warrants paid without appropriation will be posted to the Ledger of Appropriations, Encumbrances, Disbursements and Balances.

**USES:**

IC 12-17-2-26 provides that Title IV-D Incentive Payments shall be distributed in equal shares to 1) the county general fund; 2) the operating budget of the prosecuting attorney; and 3) the operating budget of the circuit court clerk.

The State Board of Accounts audit position in regard to expenditures of Title IV-D Incentive Payments is as follows:

1. These funds may be expended without appropriation and must be in accordance with 42 U.S.C. 658 and 42 U.S.C. 658A and the federal regulations promulgated under the statutes. However, amounts received as incentive payments may not, without the approval of the county council, be used to increase or supplement the salary of an elected official. The amounts received as incentive payments must be used to supplement, rather than take the place of, other funds used for Title IV-D program activities.

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**IV-D INCENTIVE PAYMENTS (Continued)**

2. Incentive Distributions will carryover to the next year and may continue to be spent without appropriation
3. Claims should be filed, advertised, and allowed in the same manner as other county claims.

**INTEREST ON PUBLIC CONTRACTS WHEN NOT PAID TIMELY**

IC 5-17-5 provides every "political subdivision shall pay interest at the rate of one percent (1%) per month on amounts due on written contracts for public works, personal services, good and services, equipment, and travel, whenever the ...political subdivision fails to make timely payment."

Timely payment is defined, with some exceptions, to occur if "...a date for payment is not specified in an applicable contract; a claim for payment for goods and services and that must be approved by a local legislative body or board is submitted to the body or board; and the political subdivision pays the claim within thirty-five (35) days following the first regularly scheduled meeting of the body or board that is held at least ten (10) days after the body or board receives the claim."

The interest requirement does not apply to the following:

- (1) Interagency or intergovernmental transactions.
- (2) Amounts payable to employees...of...political subdivisions as reimbursements for expenses.
- (3) Claims subject to a good faith dispute, if before the date of timely payment notice of the dispute is:
  - (A) sent by certified mail;
  - (B) personally delivered; or
  - (C) sent in accordance with procedure in the contract.
- (4) Contracts entered into before September 1, 1983.
- (5) Contracts related to highway or road construction, reconstruction, or maintenance, if:
  - (A) the Indiana department of transportation authorizes partial progress payments under IC 8-23-9-14; and
  - (B) each progress payment does not exceed five hundred dollars (\$500).
- (6) Claims, contracts, or projects that are to be paid for exclusively with federal funds.

Note: "good faith dispute" means:

- (1) a contention by the state or political subdivision that goods delivered or services rendered were:
  - (A) of less quantity or quality than ordered or specified by contract;
  - (B) faulty; or
  - (C) installed improperly; or
- (2) any other reason giving cause for the withholding of payment by the state or political subdivision until such dispute is settled.

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**BIDS AND CONTRACTS – PETROLEUM PRODUCTS**

IC 5-22-17-10 allows a purchasing agent to award a contract for petroleum products to:

- (1) the lowest responsible and responsive offeror, or
- (2) all responsible and responsive offerors.

The contract may allow for the escalation and de-escalation of price.

Where a contract is awarded to all responsible offerors, the purchasing agent must purchase the petroleum products from the lowest of the responsible and responsive bidders. The contract must provide that the bidder from whom petroleum products are being purchased shall provide five (5) business days written notice of any changes in price. Upon receipt of written notice, the purchasing agent shall request current price quotes in writing based upon terms and conditions of the original offer (as awarded) from all successful responsible and responsive offerors. The purchasing agent shall record the quotes in minutes or memoranda.

The purchasing agent shall purchase the petroleum products from the lowest responsible and responsive offeror, taking into account the price change of the current supplier and the price quotes of the other responsible and responsive offerors.

IC 5-22-17-10(a) defines “petroleum products” to mean, gasoline, fuel oils, lubricants, or liquid asphalt.

**SEWER LIENS – RECORDING AND CERTIFYING**

The officer charged with collection of unpaid sewage fees and penalties shall enforce their payment. The officer may defer enforcing the collection of the unpaid fees and penalties assessed until the unpaid fees and penalties have been due and unpaid for at least ninety (90) days.

As often as the officer determines is necessary in a calendar year, the officer shall prepare either of the following:

- (1) A list of the delinquent fees and penalties that are enforceable, which must include the following:
  - (A) The name or names of the owner or owners of each lot or parcel of real property on which fees are delinquent.
  - (B) A description of the premises, as shown by the records of the county auditor.
  - (C) The amount of the delinquent fees, together with the penalty.
- (2) An individual instrument for each lot or parcel of real property on which the fees are delinquent.

The officer shall record a copy of each list or each individual instrument with the county recorder who shall charge a fee for recording the list or each individual instrument in accordance with the fee schedule established in IC 36-2-7-10. The officer shall then mail to each property owner on the list or on an individual instrument a notice stating that a lien against the owner's property has been recorded. Except for a county having a consolidated city, a service charge of five dollars (\$5), which is in addition to the recording fee charged, shall be added to each delinquent fee that is recorded. The amount of the recording fee should also include the amount required to record as well as release the lien.

Using the lists and instruments prepared and recorded, the officer shall, not later than ten (10) days after the list or each individual instrument is recorded, certify to the county auditor a list of the liens that remain unpaid for collection in the next May. The county and its officers and employees are not liable for any material error in the information on this list.



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**SEWER LIENS – RECORDING AND CERTIFYING (Continued)**

The officer shall release any recorded lien when the delinquent fees, penalties, service charges, and recording fees have been fully paid. The county recorder shall charge a fee for releasing the lien in accordance with IC 36-2-7-10.

Except in a county containing a consolidated city, on receipt of the list, the county auditor of each county shall add a fifteen dollar (\$15) certification fee for each lot or parcel of real property on which fees are delinquent, which fee is in addition to all other fees and charges. The county auditor shall immediately enter on the tax duplicate for the municipality the delinquent fees, penalties, service charges, recording fees, and certification fee, which are due not later than the due date of the next May installment of property taxes. The county treasurer shall then include any unpaid charges for the delinquent fee, penalties, service charge, recording fee, and certification fee to the owner or owners of each lot or parcel of property, at the time the next cycle's property tax installment is billed.

Except in a county containing a consolidated city, after certification of liens, the officer may not collect or accept delinquent fees, penalties, service charges, recording fees, or certification fees from property owners whose property has been certified to the county auditor.

If a delinquent fee, penalty, service charge, recording fee, and certification fee are not paid, they shall be collected by the county treasurer in the same way that delinquent property taxes are collected.

At the time of each semiannual tax settlement, the county treasurer shall certify to the county auditor all fees, charges, and penalties that have been collected. The county auditor shall deduct the service charges and certification fees collected by the county treasurer and pay over to the officer the remaining fees and penalties due the municipality. The county treasurer shall retain the service charges and certification fees that have been collected, and shall deposit them in the county general fund.

Fees, penalties, and service charges that were not recorded before a recorded conveyance shall be removed from the tax roll for a purchaser who, in the manner prescribed by IC 36-9-23-32(d), files a verified demand with the county auditor.

**BANK/CREDIT CARD PAYMENTS TO COUNTIES**

A payment to a county may be made by any of the following financial instruments that the fiscal body of the county authorizes for use:

1. Cash
2. Check
3. Bank Draft
4. Money Order
5. Bank card or credit card
6. Electronic fund transfer
7. Any other financial instrument authorized by the fiscal body

If there is a charge to the county for the use of a financial instrument, the county may collect a sum equal to the amount of the charge from the person who uses the financial instrument.

If authorized by the fiscal body of the county, the county may accept payments with a bank card or credit card. However, the procedure authorized for a particular type of payment must be uniformly applied to all payments of the same type.

The county may contract with a bank card or credit card vendor for acceptance of bank cards or credit cards. The county may pay any applicable bank card or credit card service charge associated with the use of a bank card or credit card. (IC 36-1-8-11)

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**BANK/CREDIT CARD PAYMENTS TO COUNTY COURTS**

The clerk may contract with a bank or credit card vendor for acceptance of bank or credit cards in payment of bail, fines, civil penalties, court fees and costs, or fees for the preparation, duplication, or transmission of documents. However, if there is a vendor transaction charge or discount fee, whether billed to the clerk or charged directly to the clerk's account, the clerk shall collect a fee from the person using the bank or credit card.

The court clerk shall forward credit card service fees collected to the county auditor. These fees may be used without appropriation to pay transaction charges or discount fees charged by the bank or credit card vendor. (IC 33-19-6.5)

**RAINY DAY FUNDS**

Page 1 of Official Opinion 2003-7 issued August 12, 2003 by the Attorney General states in part, "As you may be aware, two separate acts were passed during the 2003 legislative session which amended Section 36-1-8-5.1. First, Public Law 173-2003 (House Enrolled Act 1232) was signed by Governor O'Bannon on May 7, 2003. Subsequently, Public Law 267-2003 (Senate Enrolled Act 166) was signed by the Governor on May 8, 2003. Pursuant to the established rule of statutory construction, when two inconsistent acts are passed by the same session of the legislature, the more recently passes statute is controlling. Therefore, because Public Law 267-2003 was passed subsequent to Public Law 173-2003, it is effective."

Additionally, the following is provided under the caption "BRIEF ANSWERS".

1. The sources of a rainy day fund established by a political subdivision are limited to funds raised by a general or special tax levy under Indiana Code Section 36-1-8-5, or supplemental distributions made by the Indiana Department of Revenue from various county accounts under Indiana Code Section 36-1-8-5.1(a)(2)-(4).
2. The fiscal body of a political subdivision is required to transfer the entire balance of an unused fund under Indiana Code Section 36-1-8-5 to either its general fund or a rainy day fund, but certain limitations apply. Per fiscal year, the amount transferred to a rainy day fund may not exceed ten percent (10%) of the political subdivision's total budget. The transfer may occur only when no other statute provides that the unused funds are to be transferred elsewhere.
3. The statutory reference to "ten percent (10%) of the political subdivision's total budget" in Indiana Code Section 36-1-8-5.1(c) indicates the capped amount a political subdivision may transfer into a rainy day fund (under Indiana Code Section 36-1-8-5) is ten percent (10%) of the total budget for all of the political subdivision's funds combined.
4. The reference to "intent" in Indiana Code Section 36-1-8-5.1(b) is a reference to the intent of the rainy day fund. Rainy day funds are intended to be used during times of economic downturn in order to stabilize a political subdivision's budget so that spending may be maintained without increasing taxes. Therefore, any appropriation consistent with that general intent would be proper.

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**RAINY DAY FUNDS (Continued)**

5. Indiana Code Section 36-1-8-5(b) indicates that unused balances of funds may be transferred to the rainy day fund "unless a statute provides that it be transferred otherwise." Therefore, the original statute creating the fund from which the transfer may come, is controlling as to any limitations or directions concerning the transfer of the unused funds. Once appropriately transferred to the rainy day fund, disbursements need only be for a use that is consistent with the intent of the rainy day fund and any previous statutory restrictions do not apply.
6. The determination concerning whether the purpose of a tax levy has been fulfilled should be based on an analysis of the specific provisions of the appropriate act and its stipulations concerning the purpose and use of the funds appropriated.

**INTEREST ON PAYMENTS FOR ROAD WORK**

IC 36-1-12-17 requires that each contract for roadwork must provide for final payment within one hundred twenty (120) days after final acceptance and completion of the contract. Final payment may not be made on any amount that is in dispute, but final payment may be made on that part of a contract or those amounts that are not in dispute.

For each day after one hundred twenty (120) days, the county shall pay to the contractor interest for late payment of money due to the contractor. However, interest may not be paid for those days that the delay in payments is not directly attributable to the county. The annual percentage rate of interest on the unpaid balance is twelve percent (12%).

**COST SAVING INCENTIVE PROGRAM**

Counties may establish a cost saving incentive program to develop and implement cost saving measures. The program may include awards to employees who suggest cost saving measures and must be established by ordinance. (IC 36-1-13)

**STATE GAMING FUND – REVENUE SHARING**

The State will distribute wagering taxes to the county treasurer of each county that does not have a riverboat. IC 4-33-13-6 requires such distributions to be placed in the county's general fund or riverboat fund, or both. The distributions may be used to carry out any governmental purpose for which money is appropriated by the county's fiscal body.

**FINANCIAL ASSISTANCE TO ENTITIES**

Since September 1, 1986, the State Board of Accounts, or designee, has been responsible for the examination of the records and accounts of entities receiving financial assistance from governmental sources.

Entities are defined as providers of goods, services, or other benefits that are maintained in whole or in part at public expense; or supported in whole or in part by appropriations of public funds, or by taxation. The definition does not include the State or Municipalities but does include for-profit and not-for-profit corporations, and unincorporated associations and organizations. Financial assistance is defined as payments to entities in the form of grants, subsidies, contributions, aid, etc.

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**FINANCIAL ASSISTANCE TO ENTITIES (Continued)**

As of September 1, 1986, all contracts involving financial assistance between governmental units and entities must permit the examination and require reports as prescribed by IC 5-11-1.

The examination of an entity receiving public funds will be limited to matters relevant to the use of the money if the financial assistance received is less than 50% of the disbursements of the entity. The entire entity is subject to examination if the assistance received is greater than 50%. An examination of an entity organized as a not-for-profit corporation which derives less than 50% (or at least 50% but less than \$100,000) of its disbursements from public funds may be waived by the State Examiner.

Our examinations of qualifying entities commenced with their year ending December 31, 1986 or thereafter. The majority of these audits are performed by private accountants authorized or designated by the State Board of Accounts. The entity will be charged the actual cost of the examination.

Detail information is provided in our Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources. These Guidelines can be found on our website at [www.in.gov/sboa](http://www.in.gov/sboa).

**CLARIFICATION TO QUESTION #1 IN THE COUNTY BULLETIN, VOLUME 338, PAGE 16, FROM THE RECORDER'S CONFERENCE.**

**Question #1:** Is a sales disclosure form required for every Sheriff's Deed that is transferred? (for every county) Some counties don't require one. Why isn't it the same across the board?

**Answer #1:** Yes. A sales disclosure form is required on every land conveyance. Indiana Code 6-1.1-5.5-1, defines "conveyance" to be any transfer of a real property interest for valuable consideration except a transfer to charity. Indiana Code 6-1.1-5.5-2 outlines a limited list of documents that purport to be conveyances. These transfers may or may not be for valuable consideration, but they are still legal transfers of real property. Thus, a sales disclosure form needs to be completed according to DLGF instructions that can be found on the State Form 46021 (Sales Disclosure Form).

Please note that a sheriff's deed is considered to be an "exempt transaction," so, the sales disclosure information need not be included on the Form. You need only complete the Form through the exempt transaction line and sign it in order to document that the auditor determined the transaction was exempt.

This clarification was provided by the Department of Local Government Finance to be consistent with their instructions on the sales disclosure form.

**OFFICE OF MANAGEMENT AND BUDGET POLICY DIRECTIVE - DUNS NUMBER**

The Office of Management and Budget (OMB) issued a policy directive that was published in the Federal Register, Volume 68, on June 27, 2003. This directive requires all organizations applying for federal grants or cooperative agreements to provide a Dunn and Bradstreet data universal numbering system (DUNS) number when applying for all federal grants or cooperative agreements on or after October 1, 2003.

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**OFFICE OF MANAGEMENT AND BUDGET POLICY DIRECTIVE - DUNS NUMBER (Continued)**

The DUNS identifier will be used for tracking purposes and to validate address and point of contact information. In the future this number will be required for all OMB Circular A-133 audits as well as for receiving grants. Organizations can receive a DUNS number at no cost by calling the dedicated toll free DUNS number request line at 1-866-705-5711 or register online. You may want to visit the following websites [http://www.dnb.com/us/duns\\_update](http://www.dnb.com/us/duns_update) and <http://www.neh.fed.us/grants/guidelines/duns.html>.

Please share this information with the other Officials in you County so that you may coordinate your efforts in obtaining and using just one DUNS number for the County as a whole.

**QUESTIONS AND ANSWERS FROM THE CLERK'S ANNUAL CONFERENCE ANSWERED BY THE STATE ELECTION COMMISSION**

**Question #1:** Is there a special application form to get reimbursement for the purchase of voting machines under HAVA? If so, how or where do we obtain these application forms?

**Answer #1:** In October 2002, the Election Division provided all counties with an application form to request voting equipment reimbursement under the state law in effect at that time. 72 of 92 counties filed this application with the Election Division by the January 2003 deadline.

Now that the Indiana legislation (IC 3-11-6.5) has been amended by the legislature, and with the State HAVA planning process in its final stages, we anticipate that the Election Division will provide counties with an amended application form after the Vote Indiana Team completes its work on the State Plan. However, the distribution of an amended application must wait until the Team finishes its work since the content of the final version of the State Plan will affect what the application includes. The Election Division also anticipates helping counties on a one-on-one basis to identify necessary amendments to previously filed county applications.

**Question #2:** When is the last date to purchase the new election system, and yet be eligible for the reimbursement program?

**Answer #2:** There is no "last date" specified in state law. However, keep in mind that federal law requires that voting systems in Indiana comply with HAVA by January 1, 2006, and that based on the final version of the State HAVA plan, there may be application deadlines established for the reimbursement program in 2003, 2004, or 2005 that would require purchase by that application deadline to be considered for reimbursement in that year. But no such deadlines have yet been fixed.

**Question #3:** Can you receive a waiver after accepting Section 101 and Section 102 "early out monies"? If so, how? Would this be unique to Indiana?

**Answer #3:** Yes. Federal law authorizes any state, including Indiana, to request a waiver (or more correctly, an extension) of HAVA deadlines to establish the statewide voter registration file and complete the replacement of non-compliant voting systems, in each case until January 1, 2006. Accepting the Section 101 or 102 money has no effect on requesting either extension. Under Indiana Law, SEA 268, the Secretary of State, with the consent of the Election Division co-directors, is authorized to file for both extensions.

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**QUESTIONS AND ANSWERS FROM THE CLERK'S ANNUAL CONFERENCE ANSWERED BY THE  
STATE ELECTION COMMISSION (Continued)**

**Question #4:** What is the "dupes program" referred to at the conference?

**Answer #4:** The duplicate voter registration elimination program is a voter list maintenance project conducted by the state in each even numbered year since 1998. Under IC 3-7-38.2, the state contracts with a vendor to identify potential duplicate voter registrations listed in the statewide voter file compiled from the lists of voters submitted by county voter registration offices to the state earlier that year. The vendor then sends a notice in the form set forth in state law to these voters, asking the voter to confirm that an apparent duplicate registration is either a registration for the voter at an old address, the registration for the voter at the current address, or not a registration for that voter at all. Based on the responses and returns of these notices, the county voter registration offices receive a report from the state advising the county to inactive, cancel, or confirm an existing voter registration, as appropriate in each case.

**QUESTIONS AND ANSWERS FROM COUNTY CLERK'S ANNUAL CONFERENCE**

**Question #1:** Our probation department is discharging cases (closing cases) even though the person owes court costs. Probation makes sure restitution is paid and their costs are paid and court costs are the last thing they collect. Probation says I can do something to collect these court costs. What can I do?

**Answer #1:** We do not know exactly what the probation department is referring to. We do not think that the probation department can close cases. The judge should do this. If a bond is filed, costs could come from the bond. If no bond is filed, then go to the judge for direction.

**Question #2:** Is a clerk allowed to receive interest on a support bank account?

**Answer #2:** Yes, but this is program income that has to go to the feds. There is a column on the report where you show this.

**Question #3:** Regarding the quarterly report on Pro Se litigants and answering yes or no. Do we answer this when it is disposed of or after the initial hearing? What about Small Claims? When judgment is entered? What about deferral or diversion? Answer when agreement is entered? Or after program is completed?

**Answer #3:** You should contact Ron Miller with State Court Administration for the answers to these questions.

**Question #4:** Do banks normally waive bank fees for the clerk's office? I pay over \$1,000 in fees per month for my child support account alone. I have not found any bank in my city willing to waive fees.

**Answer #4:** The bank can charge fees and do not have to waive them. We encourage you to find another bank that will not charge fees. If in the end you cannot find a bank that will not charge a fee, then you need to budget these fees to be paid from the general fund.

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**QUESTIONS AND ANSWERS FROM COUNTY CLERK'S ANNUAL CONFERENCE (Continued)**

**Question #5:** Is the county council allowed to take the clerk's perpetuation account?

**Answer #5:** The county council, by law, must appropriate this fund. Therefore, they do make the decisions on how you can spend this money. They also approve the general fund budget and may make you spend perpetuation funds instead of giving you a budget from the general fund.

**Question #6:** Performing marriages in our state, can a minister that is licensed in a state other than Indiana, perform a marriage in Indiana?

**Answer 6:** Yes, it appears they could. IC 31-11-6-1 states that ministers may solemnize a marriage but it doesn't say anything about only being licensed in Indiana.

**Question #7:** Bankruptcies/Retention Schedules. Need retention schedule for all paperwork received into clerk's office concerning bankruptcies: discharge of debtor, notice of meeting of creditors and deadlines, notice of creditors, and orders setting times.

**Answer #7:** You need to contact Bev Stiers from the Public Records Commission to have the retention schedule modified to include these bankruptcy documents. In the meantime, you need to include them on the PR-1 to destroy these.

**Question #8:** Should the county clerk's election board pay be paid with a payroll voucher or on a claim voucher? What about the other two board members? What about the voter registration per diem allowed under IC 3-7-12-22? Payroll or Claim?

**Answer #8:** IC 3-6-5-9 states county council shall determine the compensation. Term would indicate it is payroll and should be paid on a payroll voucher. Voter registration statute calls this per diem compensation so again it should be on a payroll claim.

**Question #9:** When the prosecutor files criminal charges for an NSF check received by the clerk's office, a service charge of \$20 is routinely added to the restitution. May the clerk's office accept this service charge and if so what category should the money be receipted into?

**Answer #9:** We would not have an audit exception to the clerk collecting this. Normally, the prosecutor's office would do this. If you do, run it through as trust and give the NSF check and service fee to the prosecutor.

**Question #10:** If we have a notary public in the clerk's office, can we charge to notarize documents for unrelated court matters?

**Answer #10:** No

**Question #11:** Is the clerk required by law to accept money for a small claims case before a judgment has been ordered? Should they pay directly to the person owed, the petitioner?

**Answer #11:** If you receive a payment prior to judgment, then we would suggest you put it in trust until judgment is received.

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**QUESTIONS AND ANSWERS FROM COUNTY CLERK'S ANNUAL CONFERENCE (Continued)**

**Question #12:** Is a summary judgment without any amounts required to go in judgment book? Does it require a written release? Does arrearage on child support that moves to a judgment need to go in judgment book? Does it require a written release?

**Answer #12:** The statutes regarding the judgment record are vague. Doesn't give a lot of detail of what you put into it. You probably need to take into consideration those people who use it. Would this information be useful to someone? Also, ask your judge or judges what they want.

**Question #13:** When someone is applying for a marriage license and has been married before (even yesterday), is there any proof that they need to provide that their divorce is actually final? Can the clerk's office be in trouble for issuing a license to someone who is waiting and assuming their divorce will be final next week?

**Answer #13:** This is really a legal question that we cannot answer. Indiana law prohibits bigamous marriages and until the divorce is final they are still married. We don't know how you would know if someone was divorced or not. We also can't say whether you would be liable or not.

**Question #14:** What if the check bounces for a marriage license? Is the marriage valid?

**Answer #14:** A check bouncing on you is always a possibility as long as you accept personal checks. Remember, you are not required to accept personal checks. We cannot answer if the marriage is valid or not.

**Question #15:** When we receive a new case in the mail, how soon does it need to be entered in our computer system? Is the official date the post-mark date? How long can it sit on a shelf?

**Answer #15:** Cases should be entered immediately and it should be dated when you receive it.

**Question #16:** The clerks know that they are responsible to deliver a monthly check to the Auditor for costs and fees collected. Is the check then the responsibility of the Auditor and the Auditor should deliver to the Treasurer or should the clerk be responsible to deliver the check to the Treasurer? Please give me some specific guidelines as we have some concerns who is responsible for that step between Auditor and Treasurer. It has been conveyed to some clerks that the Auditor may not take the check to the Treasurer and that is the responsibility of the party making a pay into the Auditor.

**Answer #16:** The quietus process is fully described in the Auditor's Manual on page 6-17. This manual can be found on the State Board of Accounts website. Very briefly, the clerk will take the check to the auditor, then to the treasurer, and bring the quietus back to the auditor.

**Question #17:** Can we require attorney's to pay certified mailing costs? This is costing the county a fortune.

**Answer #17:** Look at question and answer #3 in the October 2002 County Bulletin. Court costs include service of process by certified mail.



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**QUESTIONS AND ANSWERS FROM COUNTY CLERK'S ANNUAL CONFERENCE (Continued)**

- Question #18:** Is there a possibility of a local rule governing the allocation of postage costs to the filer of a case?
- Answer #18:** See answer #17. Because costs are to be uniform to all counties under the statute, this should be addressed legislatively rather than by local rule.
- Question #19:** Can the clerks accept payments for performing weddings?
- Answer #19:** No, IC 36-2-7-2 states the compensation fixed for county officers and employees is in full for all services performed.
- Question #20:** Can we create electronic formats for our ledger books?
- Answer #20:** Yes, however, the electronic formats cannot be spreadsheets.
- Question #21:** Does the clerk have to create a budget for the clerks perpetuation fund in August? Our auditor expects us to do this. If we pay any wages, do you need to get a salary ordinance?
- Answer #21:** This fund must be appropriated so you will either need to submit a budget during budget hearings or by additional appropriations. Any wages paid from this fund must be in the salary ordinance.
- Question #22:** The clerk is required to have a "Register of Fees and Funds Held in Trust" (form #44). Which title/description on the retention schedule "COGRFIN" would this register be categorized in?
- Answer #22:** This form is not on the COGRFIN. You must put this on a PR-1 to destroy this record.
- Question #23:** Explain how the custodial parent can get money from our local banks without paying a fee on a debit card from a bank in Indianapolis.
- Answer #23:** If they have their own bank account at a local bank, the custodial parent can receive direct deposits into that account.
- Question #24:** Can clerks perform marriages out of their county? If you do not know, who can we check with?
- Answer #24:** See answer #6. We do not see anything in this statute that limits your solemnization powers to only your county.
- Question #25:** The post office is doing away with Liberty cards for postage. Are the clerk's entitled to have debit cards with separate checking accounts? We hate to use stamps.
- Answer #25:** No, the clerk may not have a debit card. You could get a petty cash fund to purchase postage or a credit card approved by the county commissioners.

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**QUESTIONS AND ANSWERS FROM COUNTY CLERK'S ANNUAL CONFERENCE (Continued)**

**Question #26:** What are the specific rules or guidelines governing the uses of IV-D incentive payments as enacted in 1998 or 1999?

**Answer #26:** IC 12-17-2-26, 1/3 goes to the general fund, 1/3 goes to the prosecuting attorney operating budget, and 1/3 goes to the clerk's operating budget. This can be used without an appropriation of the county council and may be used to supplement, not to take the place of, other funds used for Title IVD program activities.

**Question #27:** How far back can the clerk go back on the collection of child support service fees? Does it matter if the case is closed? If not, is there a time limit to collect closed case fees?

**Answer #27:** IC 33-19-6-5 states it shall be collected when the first support payment is due. However, if not paid when due it would be a legal matter.

**Question #28:** Property sales tax from the Treasurer. We currently issue a MI# and enter them in our judgment book that is used for civil criminal judgments. Can we use a book just for tax sales only, or do we need to still use our current way? Researchers in our county would like to see them all in one book.

**Answer #28:** From an audit perspective, maintaining multiple judgment dockets is acceptable. However, we recommend that you post notice to public users that separate judgment dockets are kept.

**Question #29:** Bond Administration fee. If a case is filed and the person is found innocent do we still take out the bond administration fee? If the case is dismissed, do we still take out the bond administration fee?

**Answer #29:** No, IC 35-33-8-3.2 states, if convicted...the administrative fee of 10% or \$50 is retained.

**Question #30:** Recently, one of our judges talked to me about a new statute concerning a pay increase for probation personnel. He said that between \$25-\$100 can be charged per case. He asked me to question the State Board of Accounts. Does each county determine the fee? Is it set by ordinance through the county council? Can each court set their own fee? Can it be determined case by case or what are the options? I think this statute becomes effective July 1, 2003. Who collects this fee? Probation departments or Clerks? Please explain so we can understand it. I need to advise our judges.

**Answer #30:** This is Senate Enrolled Act 506 that states the court may order probation fees along with a new administrative fee of \$50 or \$100. This administrative fee is to be used to pay for the increase in probation salaries. The clerk or probation department can collect these fees.

**QUESTIONS AND ANSWERS FROM COUNTY TREASURER'S ANNUAL CONFERENCE**

**Question #1:** Should we have tax sale?

**Answer #1:** IC 6-1.1-24-1 requires you to have annual tax sales but in this year of uncertainty due to the reassessment, we think this is your decision.

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**QUESTIONS AND ANSWERS FROM COUNTY TREASURER'S ANNUAL CONFERENCE (Continued)**

- Question #2:** Our county sent provisional bills, therefore, we have excess funds, waiting for final statements to be mailed. This could be January 2004. How can we have 2 excess tax refunds in 2003?
- Answer #2:** First of all, we do not consider that there will be surplus tax until the reconciling bill goes out and the tax year is complete. However, there is nothing in statute that would not allow you to have multiple refunds but this could be difficult depending on your computer installation. You are going to have to keep track of each year separate.
- Question #3:** We are to have a tax sale. What must we now collect for taxpayer to avoid tax sale? What is legal? We hope to mail first tax statements in October. No rate yet or amount to pay 2002/2003.
- Answer #3:** The delinquent taxes, interest, and costs must be paid in full to remove a property from the tax sale list.
- Question #4:** Assuming that our settlement won't be completed by December 31, can we go ahead and settle our excise tax by December 31?
- Answer #4:** You would not settle the excise tax since you are not doing the settlement, but you should advance up to 80% of the excise tax to the taxing units.
- Question #5:** Is making one collection (November 10<sup>th</sup>) our decision (treasurer) or do we have to get states approval? Also (for only one collection) can we extend the deadline to give customers more than 15 days notice, or do we have to get states approval?
- Answer #5:** Once you determine when you are going to collect taxes then you need to send a letter signed by both the auditor and treasurer to the Department of Local Government Finance for their approval of your new due date. You must give taxpayers 15 days notice but you can give them more as long as you have that built in to your new collection date.
- Question #6:** Because we did not do the provisional bills, how do we handle and or calculate the interest for the units we are suppose to pay after July 1? What rate? When do we pay it?
- Answer #6:** Interest will be owed beginning the 52<sup>nd</sup> day after the tax due date to the time settlement is made. The rate will be the unit's proportional share of whatever interest is earned. You would pay it as soon as practical.
- Question #7:** I know IC code allows 15 days to send out tax bills. We have always given taxpayers 30-45 days time period from time bills sent out to tax deadline. We are going to run late in getting tax bills out for 1<sup>st</sup> and 2<sup>nd</sup> installment. Say I don't get bills out till 10/25, will State Board of Accounts allow a deadline of 11/21?
- Answer #7:** State Board of Accounts does not approve new due dates. That is the Department of Local Government Finance. Assuming you meet these dates, you would comply with the statutes and we would not have an audit exception.

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**QUESTIONS AND ANSWERS FROM COUNTY TREASURER'S ANNUAL CONFERENCE (Continued)**

**Question #8:** Is it true that mortgage companies only make two property tax payments in one year? It appears now that some counties will have 3 collections in 2004. Could we send a print out of taxpayers and amount due for fall of 2002? Can another provisional bill be sent for fall collection?

**Answer #8:** This is not by statute that mortgage companies can only make two payments. We think these are company policies. By statute, there is only one provisional bill and one reconciling bill.

**Question #9:** All of the county funds are invested in the same bank. I call for bids, and this is the way it goes. Is this good or bad?

**Answer #9:** If that is the best bid it is probably good. There is no problem with investing all your money in the same bank.

**Question #10:** When we send out a claim for surplus do we have a limit on time to send a check? Is it legal to wait 5 or 6 months before we send them their check? We had an overpayment at the end of May. Can we wait until December to send a check after settlement is done?

**Answer #10:** There is no time limit to mail refund surplus tax. However, the law would indicate that you should be issuing tax refund checks twice a year and we would hope those would be issued as timely as possible.

**QUESTIONS AND ANSWERS FROM COUNTY AUDITOR'S ANNUAL SPRING CONFERENCE**

**Question #1:** If this was a "normal" year and the spring collection has passed...if a town brings in a list of sewer liens today – we will not bill them until next spring. But, if a title company comes in on Friday with a check (from a closing), to pay this lien, does our office add this particular lien to the tax rolls for the treasurer to collect and then this amount will be included in the December settlement disbursement or does the treasurer collect this lien as an advance collection for next June's settlement?

**Answer #1:** Either process is appropriate. You should decide which process is best for you.

**Question #2:** Can we increase our sales disclosure fee to \$10.00?

**Answer #2:** House Enrolled Act 1714, which becomes effective January 1, 2004, increases the sales disclosure fee to \$10.00.

**Question #3:** Can the county auditor spend from the sales disclosure fund?

**Answer #3:** IC 6-1.1-5.5-4.5 states, "The county fiscal body shall appropriate the money in the sales disclosure fund for the purposes stated based on requests by assessing officials in the county." The county auditor is not an assessing official, therefore, could not spend from this fund without the approval of a county assessing official.

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**QUESTIONS AND ANSWERS FROM COUNTY AUDITOR'S ANNUAL SPRING CONFERENCE  
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- Question #4:** The following questions were all presented and addressed the same issue, therefore, we are combining them into one question with one answer. The questions were as follows: Please explain the breakdown of the sales disclosure fees, the current fees and the fee breakdown beginning January 2004? Please clarify the distribution of sales disclosure fees. Confusing!! \$5 to \$10. We couldn't hear the fee breakdown for the \$10 sales disclosures. Please let us know. Please verify the new breakdown of the \$10 sales disclosure fee. There was confusion on this at the Wednesday presentation.
- Answer #4:** The current law which is effective until December 31, 2003 is: \$5 sales disclosure fee with \$4 going to the county to be quietused into the sales disclosure fund and \$1 going to the state. Effective January 1, 2004, the sales disclosure fee increases to \$10 with \$1 going to the state assessment training fund, \$4 going to the state general fund, and \$5 going to the county to be quietused into the sales disclosure fund.
- Question #5:** County assessor's state called training sessions are usually paid from the general fund unappropriated money. Can these be paid from the sales disclosure fund? And would this need to be appropriated?
- Answer #5:** Yes, training sessions could be paid from the sales disclosure fund. This would need to have an appropriation.
- Question #6:** Does the Auditor have to keep a set of plat books in her office? How up to date do they need to be?
- Answer #6:** IC 6-1.1-5-1. Plat books are to be kept by the county auditor, or if an ordinance is passed, then by the surveyor. These plat books are to be kept current.
- Question #7:** Does the auditor have the authority to cancel or change a meeting due to not being able to attend (or having a deputy attend) to take minutes?
- Answer #7:** We are not aware of any law that would give the county auditor to cancel meetings of the county commissioners or the county council. By law, the auditor is the clerk of these bodies and is required to attend or send a deputy to the meeting.
- Question #8:** When you use sick or vacation during a 40 hour work week, are you entitled to overtime if you work over the 40 hours?
- Answer #8:** You should contact the Department of Labor regarding this issue. This involves the Fair Labor Standards Act and you need to get the direction from them.
- Question #9:** Our county council was under the assumption that once a county starts supplementing the judge or prosecutor or assistant prosecutor, the county could just stop supplementing?
- Answer #9:** IC 36-2-5-14. There is no provision within this statute that says the once you have started supplementing the salaries that you have to continue. It would appear that the council has the right to stop the supplement.

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**QUESTIONS AND ANSWERS FROM COUNTY AUDITOR'S ANNUAL SPRING CONFERENCE  
(Continued)**

**Question #10:** What is the state's position on reimbursements to an appropriation (such as overpayments)? Some departments ask when they receive monies – Can I place it back into their appropriation?

**Answer #10:** We would not take an audit exception to certain items being placed back in the appropriation. A check written in error, an overpayment made in error, or an insurance reimbursement would be examples of items that could be placed back to the appropriation.

**Question #11:** What can be done when a county employee doesn't pay their property taxes? We are doing provisional and last November's taxes haven't been paid.

**Answer #11:** IC 6-1.1-22-15. The treasurer should certify to the auditor that the employee is delinquent in paying of the taxes. The auditor then will garnish the employee's wages until the taxes are paid.

**Question #12:** We do not have enough in the congressional school interest fund to pay out the set interest amount to the schools. Where do we take this out of to pay the schools?

**Answer #12:** County general fund.

**Question #13:** The price of the disclosure forms went from \$5 to \$10. In the past we have had disclosure forms checked as exempt transaction, but I knew the person and I also knew that he sold the house to the other person but the sellers attorney checked exempt. My question is how can you prove that it is not an exempt transaction?

**Answer #13:** By statute, it is not your responsibility to check out all these transactions and confirm or prove that the form is filled out correctly. You must rely on the information presented. If you know for a fact, the transaction is questionable, and then we would suggest you contact your county attorney.

**Question #14:** When does the auditor have to print new transfer books? I wanted to print ours for January 1, 2004.

**Answer #14:** By law, transfer books are to be printed after each periodical reassessment.

**Question #15:** City and Town Court Costs. We have been distributing money from this fund twice a year based upon population. We have been told that we should only be distributing to those who prosecute 50% or more of their ordinances. Is there a certain form (SBOA) that should be submitted to the auditor's office?

**Answer #15:** There is no form that must be submitted to the county auditor. The statute says it is the auditor's responsibility to distribute this money to those cities or towns that qualify. To determine if they qualify, you can get this information from the clerk of the circuit court or the city or town could submit to you a list of cases where they have prosecuted the case.

**Question #16:** Why no per diem for auditors when assessors get it? Is this fair?

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**QUESTIONS AND ANSWERS FROM COUNTY AUDITOR'S ANNUAL SPRING CONFERENCE  
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**Answer #16:** Indiana law allows the per diem allowance for assessors, when at conferences. The statute for State Board of Accounts meetings that the auditor attends, does not allow for a per diem to be paid but for you to be reimbursed for actual meal costs.

**Question #17:** Explain CE procedure. Can we refuse CE's? Are CE's allowed to be written off for the tax year?

**Answer #17:** The certificate of error procedure is defined in IC 6-1.1-15-12. The county auditor issues certificates of error so therefore, you aren't refusing anything. It is your responsibility to issue these. Certificate of errors should not be written off.

**Question #18:** Does the riverboat money go into a separate fund or into county general fund?

**Answer #18:** IC 36-1-8-9. Riverboat money goes into a separate fund called the riverboat fund.

**Question #19:** Please clarify if Auditor's deputies can be notary publics? If a taxpayer files a form 130 appeal and the appeal is not settled prior to tax deadline, must the taxpayer pay the installment as billed in order to avoid penalties being applied?

**Answer #19:** Yes, deputies can be notaries. The taxpayer must pay the taxes for real estate based upon the preceding assessment and for personal property, they must pay the amount based on the filed return.

**Question #20:** Is the Auditor's office required to keep a record on file of the sheriff's employee's 28-day work cycle?

**Answer #20:** Someone needs to keep this information for audit purposes. Our feeling would be that this is probably information that should be maintained by the sheriff.

**Question #21:** How many counties charge transfer fees for deeds?

**Answer #21:** IC 36-2-9-18 says the county may adopt a fee in an amount that does not exceed \$5 for each real property endorsement that the auditor makes. We believe a high percentage of counties have adopted this fee.

**Question #22:** When a tax deed is recorded and no recording fees are collected, how is the \$5 perpetuation fee collected? Or is it?

**Answer #22:** We are assuming you are talking about the \$5 fee the recorder collects for recording deeds that goes to the surveyor's corner perpetuation fund. If no fee is collected then no money will go to that fund.

**Question #23:** If the commissioners accept both gasoline bids that were properly submitted, what is the proper procedure for ordering from them? Can they, after the acceptance of both, only order from one without considering the other bidder?

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**Answer #23:** Yes, IC 5-22-17-10. The purchasing agent must purchase the petroleum products from the lowest of the responsible and responsive bidders. The contract must provide that the bidder from whom petroleum products are being purchased shall provide 5 business days written notice of any change of price. Upon receipt of written notice, the purchasing agent shall request current price quotes in writing based upon the terms and conditions of the original offer (as awarded) from all successful responsible and responsive offerors. The purchasing agent shall record the quotes in minutes or memo. The purchasing agent shall purchase the petroleum products from the lowest responsible and responsive offeror taking into account the price change of the current supplier and the price quotes of the other responsible and responsive offerors.

**Question #24:** Legal Advertising - Are any or all ordinances to be advertised?

**Answer #24:** Home rule ordinances do not need to be advertised but other ordinances may be required to be advertised. IC 5-3-1 states that if the event is the required publication of an ordinance, it must be advertised one time thirty days after passage. So if the statute requires a certain ordinance to be advertised then it must.

**Question #25:** Commissioner & Council meetings – Do they not have to be posted at the court house door?

**Answer #25:** The first meeting of the year needs to be posted. Regularly scheduled meetings after that do not have to be posted.

**Question #26:** Form 133 – It was stated (IBTR) that the auditor is responsible for changing the description of real estate in error. Is this referring to plat book? Our county assessor keeps/updates plat books.

**Answer #26:** If there is an error, the plats will need to be changed. IC 6-1.1-5-1 states that either the auditor or surveyor updates the plat books.

**Question #27:** What is required publication of an ordinance? What is required and what is not? Calendar published at the beginning of the year from commissioners and council meetings, would this serve for publication notice for the year?

**Answer #27:** See answer #24 for the ordinance publication requirements. Posting of the calendar at the beginning of the year would serve as notice for the year.

**Question #28:** Is it possible under law to offer an “Amnesty Program” for delinquent taxpayers? Where by the taxpayer would be forgiven penalties in exchange for the total taxes due especially for counties that will have delayed bills so the county could generate revenue?

**Answer #28:** No

**Question #29:** Are you discussing this GASB 34 with – highway engineer’s Commissioners, Council?

**Answer #29:** Yes, we are discussing this with everyone in the county that will be involved with this.



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**QUESTIONS AND ANSWERS FROM COUNTY AUDITOR'S ANNUAL SPRING CONFERENCE  
(Continued)**

**Question #30:** If a sewage lien is put on in July and not paid with November collections, do we charge the 10% penalty? If a lien isn't paid in May or November do we charge 10% twice?

**Answer #30:** No, you do not charge the 10% penalty since it is not due until the next year's May installment. Yes, if sewer charges placed on the duplicate and the due date passes without payment, 10% is added. An additional 10% would be charged for each subsequent due date that passes without payment.

**Questions #31:** If someone mails a deed to be recorded and it is for an exempt transaction and that person sends us \$5.00 for a sales disclosure can we keep it?

**Answer #31:** No, refund it.

**Question #32:** Should we do temporary loans to funds in the red even if we are anticipating tax collections in August? Do you have to bid out cash managed funds every two years? Will there be a sample capital asset policy for us to use as a guideline?

**Answer #32:** The answer to all three questions is yes.

**Question #33:** Budgets are submitted and office holders have asked for salaries and budget needs. Can the Co Council make a position not ask for? Can they give money to an entity that has not been requested by anyone?

**Answer #33:** Yes on both issues. The county council is the fiscal body and therefore, can add, delete, or modify anything they want from submitted budgets. Office holders are just making recommendations, the council determines if these recommendations become reality.

**Question #34:** What if the commissioners refuse to sign the certification of school funds mailed to Auditor's a short time ago? These are the same figures for years and years. They want to know can this be distributed and the fund depleted. What is this, where did it come from, what does it do, and why is it continued?

**Answer #34:** The congressional school funds came from the sale of congressional land years and years ago. The statute requires the county to distribute the same amount each year. These funds may not be depleted or used for any other purpose unless we have a legislative change.

**Question #35:** Take home vehicles, what are we allowed to charge and who gets charged?

**Answer #35:** This is an IRS issue. You need to contact Valerie Hardman @ 317-226-5305 for further information.

**Question #36:** Sewer lien – If a town certifies to the Auditor on April 20<sup>th</sup> and tax bills are already printed should we apply the sewer lien to the bill and send a reprinted bill? Can we wait until the following May to apply lien to the property? Our county has the sewer lien attached or a part of the real estate bill.

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**QUESTIONS AND ANSWERS FROM COUNTY AUDITOR'S ANNUAL SPRING CONFERENCE  
(Continued)**

**Answer #36:** Sewer lien is due on the next year's May installment.

**Question #37:** Coroner is given \$5,000.00 dollars for vehicle expenses each year. Should he receive a 1099 on this money? Funeral homes are paid \$100.00 for burial expensed on veterans. Should they get a 1099 also if they exceed the \$600.00 amount? We are holding several deeds that need corrections for different things. For example legal missing save and exempt, names don't match, acreage doesn't match. If there anything we can do to get these transferred? We have contacted attorneys and owners several times and we can't get corrections from them.

**Answer #37:** The coroner should not be receiving a fixed amount for travel. They should be turning in a mileage claim. This is by IC 36-2-7-5. If done properly by claim and the mileage rate is less than the federal rate, then no 1099 will be issued. You should contact the IRS regarding the funeral home question. We have no solution to your final question.

**Question #38:** Rates are down on Congressional School monies but we still have to pay the same amount to the school. At some point the interest monies will run out – what is to be done then? Are there any cases where money borrowed from one fund to another can be paid back after the end of the year or does it always have to be paid back before then?

**Answer #38:** You should have a healthy balance in the congressional interest fund and therefore, we would never envision you running out of money to pay the interest. But if it does happen, then the general fund would be responsible for this. IC 36-1-8-4(b) allows loans to be paid back past the end of the year if the county council determines that an emergency exists that requires an extension of time, it may be extended for not more than six months beyond the budget year of the year the transfer occurs.

**Question #39:** When the treasurer's office collects on a piece of property and the taxpayer later realizes he paid on the wrong piece and the money has already been distributed and they want their payment applied to the right property, how do you resolve this situation? Tax payable 2001-2002.

**Answer #39:** If the taxpayer caused the error, then no adjustment should be made. If the county caused the error, then adjustment should be made.